I. INTRODUCTION

On May 15, 2001, pursuant to G. L. c. 164, § 94, Blackstone Gas Company ("Blackstone" or "Company") filed with the Department of Telecommunications and Energy ("Department") new rate schedules designed to implement a $220,067 increase in annual base revenues, based on a test year ending December 31, 2000.[1] This represents an 18.4 percent increase to current rates.[2] By Order dated May 18, 2001, the Department suspended the effective date of the proposed tariffs until December 1, 2001, to investigate the propriety of the changes sought by Blackstone. The Department last approved an increase to Blackstone's rates in 1996. See Blackstone Gas Company, D.P.U. 96-65 (1996).

Blackstone is the smallest investor-owned utility in the state and serves approximately 1,000 customers in the towns of Blackstone and Bellingham. The Company also owns Blackstone Sales and Service, an affiliated company providing propane gas and services ("Affiliate").

Pursuant to notice duly issued, the Department held a public hearing on June 27, 2001 in Blackstone, to afford interested persons an opportunity to comment on the proposed rates. On August 22, and 24, 2001, the Department held evidentiary hearings at its Boston offices. The Attorney General of the Commonwealth ("Attorney General") filed a notice of intervention as a matter of right, pursuant to G.L. c. 12, § 11E. The Department granted limited participant

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1 In accordance with the Department's directives in Service Quality, D.T.E. 99-84 (2001), Blackstone submitted its service quality plan. The Department will investigate the Company's service quality plan as part of our investigation in D.T.E. 99-84.

2 The Company later revised the amount of the increase to $141,328, or 11.8 percent of its current rates (Company Reply Brief at Att. 1).

status to Berkshire Gas Company.

In support of its filing, the Company sponsored the testimony of Lee Smith, senior economist at La Capra Associates, and James Wojcik, president of the Company. The evidentiary record consists of 172 exhibits and 27 record requests. The Attorney General presented no witnesses but instead cross-examined the Company's witnesses. The Company and the Attorney General also submitted briefs.

II. RATE BASE

A. Post-test Year Additions

1. Introduction

The Company proposed to adjust its test year end rate base to account for several post-test year plant additions. The proposed post-test year plant additions consist of two vehicles totaling $90,718 (Exh. B-4, at sch. 4).[3] As a result, the Company proposes to raise its rate base to $1,342,331 (Company Reply Brief at Att. 3).

2. Positions of the Parties

a. The Attorney General

The Attorney General argues that the Department should reject the Company's proposed post-test year plant additions in rate base because, taken individually, the items do not represent a significant investment (Attorney General Brief at 10). Specifically, the Attorney General contends that neither the cost of the International Truck nor the Chevrolet Express Truck represents such a significant investment as to allow the recovery of the purchase price as

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[3] The two vehicles include an International Truck ($61,469) and a Chevrolet Express Truck ($29,249).

a post-test year addition to rate base (id.).

The Attorney General states that the staff of the Affiliate uses the International Truck in the course of business (Attorney General Reply Brief at 4-5). Thus, the Attorney General argues that when calculating the value of the International Truck, a portion of the value should be allocated between Blackstone and the Affiliate (id.).

b. The Company

The Company contends that its proposed post-test year additions are consistent with Department precedent and should be allowed (Company Brief at 5). First, the Company argues that the addition of two trucks, represents a significant addition to rate base (id.). Second, the Company states that its request is for a known and measurable amount (i.e., $90,718) (id.). Finally, the Company states that the trucks are used solely to provide service to Blackstone ratepayers, not customers of the Affiliate (Tr. 1 at 76-77).

3. Analysis and Findings

The Department has allowed recovery of post-test year additions to plant when a company demonstrates that the addition is known and measurable, in service, and represents a significant investment which has a substantial impact on a company's rate base. See, Assabet Water Company, D.P.U. 95-92, at 6 (1996), see also, Western Massachusetts Electric Company, D.P.U. 1300, at 14-15 (1983); Boston Edison Company, D.P.U. 906, at 7-11, (1982). The Department has stated that its determination whether an investment significantly impacts a company's rate base is company-specific. See e.g., Boston Gas Company, D.P.U. at 96-50 (Phase I) (1996).

The evidence establishes that the two trucks cost $90,718, a known and measurable amount (Exh. B-4, at sch.4). Moreover, the record indicates that the trucks are actively used by Blackstone to provide service to customers . Thus, the Department finds that the proposed post-test year addition is for a known and measurable amount and is in service. The evidence also establishes that the cost of two trucks calculates to 7.25 percent of its entire rate base (Company Reply Brief at Att.3). This, the Department finds, is a substantial impact on Blackstone's small rate base. Accordingly, as the Department has found that the Company's proposed post-test year addition to rate base is known and measurable, in service, and represents a significant investment with a substantial impact on rate base, the Department allows the $90,718 post-test year addition to be included in the Company's rate base.

Regarding the Attorney General's position that a portion of the price of the International Truck should be allocated to Blackstone's affiliate, the Department notes that the record does not support the Attorney General's contention that the truck is used for affiliate business. In fact, the evidence established that Affiliate company staff does not require the use of any vehicle for business purposes (Tr. 1 at 76-77). Thus, the Department will not allocate any portion of the International Truck to the Affiliate.

B. Working Capital for Gas Costs

1. Introduction

The Company submitted a revised Cost of Gas Adjustment Clause ("CGAC") tariff that allows Blackstone to recover gas-related working capital via the Gas Adjustment Factor ("GAF") (Exh. B-1, at 2). Alternatively, the Company proposed to recover working capital on gas costs via its base rates (Tr. 1 at 98-100).

2. Positions of Parties

a. Attorney General

The Attorney General notes that the Company's proposed CGAC tariff is, for the most part, consistent with Department precedent regarding the recovery of gas working capital costs (Attorney General Brief at 11). However, the Attorney General contends that as the Company's CGAC tariff incorporates a cost of capital rate that includes only Blackstone's cost of equity capital, the CGAC tariff must be modified to be consistent with the carrying cost rate calculations used by all other LDCs (id.). Finally, the Attorney General asserts that the Company's proposal to recover gas working capital via its base rates rather than via the GAF should be rejected because it is contrary to the Department's policy regarding the unbundling of gas costs (id.).

b. The Company

The Company states that it prefers to recover gas working capital via its base rates to more accurately allocate costs (Company Brief at 7). However, Blackstone states that the Company does not object to the inclusion of a working capital allowance for gas in its CGAC tariff (id.).

3. Analysis and Findings

Regarding the Company's proposal to recover gas working capital via its base rates rather than via the CGAC, the Department has held that recovering gas-related costs via the CGAC is consistent with the Department's goal of rate unbundling. See Fitchburg Gas & Electric Light Company, D.T.E. 98-51, at 154 (1998); Boston Gas Company, D.P.U. 96-50 (Phase I), at 72, 149-150, 173, (1996); Boston Gas Company, D.P.U. 93-60, at 412-413

(1993). The Company has provided no evidence to persuade us to deviate from this policy and, thus, is ordered to recover gas related working capital via the GAF.

The Department notes that the cost of capital rate used to calculate the cost of gas working capital should be based on the Company's cost of equity and the cost of debt. As proposed, Blackstone's weighted cost of capital rate takes into account the Company's cost of equity as well as the cost of debt (Exh B-1, at exh. 10). Therefore, the Department finds that the application of a weighted cost of capital rate to calculate gas working capital costs is consistent with Department directives for all LDCs. Accordingly, we direct the Company, in its compliance filing, to submit a CGAC tariff that contains the calculation of gas working capital costs on the basis of the weighted cost of capital rate approved in this case.

III. EXPENSES

A. Uncollectible Expense

1. Introduction

The Company proposed an adjustment to test-year expense to allow for recovery of bad debt. Typically, the uncollectible expense is calculated by determining the three-year average of net write-offs as a percentage of total retail revenues for the corresponding period, and multiplying the resulting percentage by adjusted test-year retail revenues. See Fitchburg Gas and Electric Light Company, D.T.E. 98-51, at 49 (1998); Western Massachusetts Electric Company, D.P.U. 84-25, at 113-114 (1984). Blackstone proposed to calculate its uncollectible expense using its net write-off experience for the years 1999 and 2000, rather than using a three-year average (Company Brief at 7).

2. Positions of the Parties

a. Attorney General

The Attorney General claims that the Company incorrectly calculated its uncollectible expense because it used its net write-off experience for thirteen months (Attorney General Brief at 13). The Attorney General argues that the Company has provided insufficient rationale as to why its proposed calculation for uncollectible expense differs from established Department policy (id.). The Attorney General argues that by using the Company's net write-off experience for the years 1998-2000, the Company's uncollectible expense should be 0.783 percent of the Company's normalized revenues (id. at 14).

b. The Company

The Company argues that calculating bad debt expense using its net write-off experience for the last three years is not representative of the Company's actual experience (Company Brief at 7-8). To illustrate its point, the Company notes that for the last six years, the booked uncollectible expense has averaged 1.02 percent of revenues (id.). Because the price of gas was higher in 2000, than in the years 1998 and 1999, the Company states that its net write-off experience in 1998 and 1999 was significantly below that of 2000 (Company Reply Brief at 7). To recover an amount more representative of its net write-off experience since 1995, the Company proposes to calculate its uncollectible expenses based on the years 1999 and 2000, not the thirteen months alleged by the Attorney General (RR-AG-6). Under this scenario, the Company's proposed recovery of uncollectible expenses totals 1.0 percent of its revenues (id.).

3. Analysis and Findings

The Department has found that using a simple average of the past three years of experience in a company's bad debts accommodates fluctuations from year to year and therefore results in a representative level of expense. Berkshire Gas Company, D.P.U. 92-210, at 63 (1993); Boston Edison Company, D.P.U. 1720, at 28-29 (1984); Boston Gas Company, D.P.U. 1100, at 84-86 (1982). The Department is not persuaded by the Company to deviate from its long-established method of calculating bad debt expense. In fact, the Department policy of allowing for recovery of bad debt using three years of a company's net write-off experience takes into consideration any anomaly of gas prices, such as those experienced by Blackstone in 2000. Accordingly, the Department will allow recovery of bad debt expense based on the application of the net write-off of 0.783 percent.

The Department has determined that uncollectibles should be apportioned between base rates and the CGAC to account for the effect of customer migration to transportation service. See Fitchburg Gas and Electric Light Company, D.T.E. 98-51 at 50 (1998). Allocating uncollectibles between base rates and the CGAC is also consistent with the Department's goal of rate unbundling Id.

B. Wages Increases

1. Introduction

The Company proposes to make a pro forma adjustment to recover an increase in wages paid to employees during the test year (Exh. B-2, Schedule 3). The Company calculated an average wage increase per employee of 17.82 percent (Tr. 1 at 54).

2. Positions of the Parties

a. The Attorney General

The Attorney General argues that the Company's proposal to recover an average employee wage increase of 17.82 percent is unreasonable (Attorney General Brief, at 14-15). Instead, the Attorney General requests that the Department limit recovery of wage increases to the current rate of inflation (id. at 15).

b. The Company

The Company maintains that its adjustment for a wage increase is reasonable (Company Brief at 9). The Company states that the percentage requested is largely due to a wage paid to an employee skilled in pipeline safety (id. at 8). Because the employee is essential to the Company's ability to manage safety issues, the Company determined that to retain this individual in its employ, a 36 percent salary increase was reasonable (id.). The Company argues that by awarding one individual a salary increase of 36 percent, it appears that each employee received a 17.82 percent wage increase (id.). Finally, the Company argues that despite the 36 percent salary increase, the annual compensation paid to this one employee is significantly less than the average wage paid to distribution supervisors currently employed by two comparable local distribution companies (RR-DTE-8).

3. Analysis and Findings

For small companies such as Blackstone, the Department has found that the Company must demonstrate the reasonableness of its employee compensation levels. South Egremont Water Company, D.P.U.95-119/122, at 16-17 (1996). The Department notes that with so small an employee base, it does not take much to skew a percentage into a high-seeming range.

Thus, for purposes of determining whether to allow Blackstone to recover for wage increases, the Department will focus on whether Blackstone's employee compensation levels are reasonable in the circumstances under which Blackstone operates.

To demonstrate the reasonableness of Blackstone's employee compensation levels, the Company conducted an analysis of wages paid to individuals employed in the same capacity at similarly-situated utilities (Exh. DTE 1-15). The result of the Company's analysis was that Blackstone employees are paid wages below those paid to employees with similar qualifications at companies similar in size to Blackstone (id.). The Company's showing on this point was persuasive. Moreover, the Company's analysis showed that despite the 36 percent increase in the supervisor's salary, the salary is still below that paid for similarly-qualified individuals employed by comparable utilities (RR-DTE-8). As the evidence has established that Blackstone maintains employee compensation levels below those of similarly-situated utilities, the Department finds that Blackstone's compensation levels are reasonable. Competitive salary increases for an employee experienced in pipeline safety for this important customer safety concern seems necessary and, therefore, reasonable. Recovery of costs related to that salary increase is accordingly warranted. Limiting recovery to the rate of inflation, as the Attorney General would have us do, is not conducive to public safety or to equitable ratesetting for those charged with managing a gas company with its public safety mandate in mind. Accordingly, the Department will allow for the recovery of Blackstone's employee wage increases.

C. Liability Insurance Expense

1. Introduction

The Company carries general liability insurance for its utility and Affiliate businesses at a cost totaling $26,430 (Exh. AG-3-12; Exh. B-2, at sch.3). This figure is based on the Company's most recent invoice for the period between April 5, 2001 and April 4, 2002 (id.). The Company proposes that the entire premium be recovered in base rates rather than allocating the cost between the Company and the Affiliate (Tr.1 at 75).

2. Positions of the Parties

a. The Attorney General

The Attorney General argues that, because the Company and its Affiliate are covered by a combined general liability insurance policy, the cost of the premium should be allocated between the Company and the Affiliate (Attorney General Brief at 16). Moreover, the Attorney General recommends that, as the Company failed to propose to allocate the general liability premium costs, the Department should direct that 32.9 percent of the cost (i.e., $8,804) be allocated to the Affiliate (id.).

b. The Company

According to the Company, the insurance carrier offered Blackstone reduced rates if the Company purchased an umbrella policy that included both the regulated and affiliated businesses (Company Brief at 10). The Company states that if it had purchased the general liability insurance for Blackstone itself on a stand-alone basis, the cost of such a policy would exceed the amount it spent to purchase insurance for the combined companies (id.; RR-DTE-2). The Company argues that by purchasing a joint liability insurance policy, instead of purchasing the policy as a stand-alone Company, Blackstone was able to save significant money (Company Brief at 10). Thus, given the overall savings, the Company requests that the Department refrain from allocating any amount of the general liability insurance premium to the Affiliate (id.).

3. Analysis and Findings

The Department has found that direct assessment of costs to non-utility operations is preferred to an exclusive reliance on allocation factors. Berkshire Gas Company, D.P.U. 90-121, at 68 (1990). Where costs are common, however, allocation of costs between a utility and an affiliate is essential to ensure that ratepayers do not subsidize affiliate business costs. To maintain the bright-line between Blackstone's regulated utility costs and Affiliate costs, the Department finds that the Company must allocate the liability insurance premium to the Affiliate.

As the Company has provided no information on how much of the general liability insurance costs are attributable to the Affiliate, the Department must determine what allocation factor to implement. In this case, a direct allocation was not proposed by the Company. Instead, the Company proposed a revenue allocator for allocating similar types of expenses to the Affiliate (RR-AG-9). Therefore, the Department will use the revenue allocation as proposed by the Company to allocate to the Affiliate those expenses shared with the Company.

The Department finds it proper to allocate a percentage of the costs of the general liability insurance to the Affiliate, and the Department finds that the revenue allocation factor as proposed by the Company for other allocations to the Affiliate is reasonable. Consequently, the Department directs that $8,804 of the premium costs be allocated to the Affiliate.

D. Officers' Compensation

1. Motion to Supplement the Record

On October 1, 2001, Blackstone filed a Motion to Supplement the Record ("Motion"), pursuant to 220 C.M.R.§§ 1.04(5), and 1.11(7) and (8), seeking to admit into evidence an affidavit by James Wojcik. The affidavit was intended to reaffirm the Company's contention that no amount of Mr. Wojcik's salary should be allocated to the Affiliate since: (1) his work for the Affiliate is outside the normal business hours of the utility, and (2) he is compensated by the Affiliate for the services he renders. On October 9, 2001 the Attorney General filed an objection to the Company's Motion, and also submitted a cross-motion to strike all parts of the Company's brief that make reference to information contained in the Affidavit ("Cross-motion").

a. Positions of the Parties

i. The Attorney General

The Attorney General objects to the Company's motion on the grounds that the evidence proffered does not meet the Department's requirements for admission of post-hearing evidence, and moreover, contradicts testimony already in evidence (Attorney General Objection at 4). Specifically, the Attorney General states that the Company has not shown good cause to admit the affidavit because the information stated therein is not new or previously unknown (id.). Moreover, the Attorney General contends that the statements contained in the Affidavit contradict record evidence in this proceeding (id. at 7). The Attorney General claims that pursuant to the Company's corporate tax return for year-end 2000, Mr. Wojcik's combined salary for both the utility and the Affiliate is $76,112 (id.). Thus, the Attorney General argues that the Affidavit stating that Mr. Wojcik's salary for the Affiliate is separate from the one he receives from the utility contradicts the record evidence (id.)

ii. The Company

Blackstone argues that there is good cause to reopen the record to admit evidence on the issue of allocation of officers' salaries because the Attorney General argued for the allocation of Mr. Wojcik's salary for the first time in his initial brief (Motion at 1). Therefore, the Company argues, failure to allow the affidavit would deny Blackstone an opportunity to present evidence on this issue (id.).

b. Analysis and Findings

Pursuant to 220 C.M.R. § 1.11(8), "[n]o person may present additional evidence after having rested… except upon motion and showing of good cause." Good cause has been defined as a showing that the proponent has previously unknown or undisclosed information regarding a material issue that would be likely to have a significant impact on the decision. Machise v. New England Telephone and Telegraph Company, D.P.U. 87-AD-12-B, at 4-7 (1990); Boston Gas Company, D.P.U. 88-67 (Phase II), at 7 (1989); Tennessee Gas Pipeline Company, D.P.U. 85-207-A, at 11-12 (1986).

The information in the affidavit pertains to the amount of time Mr. Wojcik spends performing duties for the Affiliate. The issue of whether employee salaries should be allocated to the Affiliate was approached during discovery (Exh. AG-3-6, at Att.1), and did not arise on brief for the first time.[4] Had the Company determined to provide added information on the

[4] Even had it arisen on brief for the first time, it is hard to see the basis for the Company's claim of lack of opportunity to address the point in testimony. The

allocation of Mr. Wojcik's salary, it could have presented the information while the record was open. The Company has not shown that the information in the Affidavit is previously unknown or undisclosed and thus, the Company has not shown good cause to admit the Affidavit into evidence. Therefore, the Department denies the Company's Motion to Supplement the Record. Accordingly, the Attorney General's objection to the motion is sustained and the Attorney General's cross-motion to strike all parts of the Company's Briefs that make reference to the information contained in the Affidavit is granted.

In response to the Company's argument that this issue was raised for the first time in brief, it is well established that the filing of a general rate case places a company on notice that every element of the rate request is at issue. Bay State Gas Company, D.P.U. 1535-A, at 17 (1983). Hence, the Company was on notice that allocation of the officers' salaries is at issue, and the Department finds that the Company's contention that its due process rights have been violated is without merit.

The manner in which the Motion was submitted deserves comment. The Company submitted its Motion attached to Mr. Wojcik's Affidavit. However, in seeking to reopen the evidentiary record, the proper procedure is for the moving party to submit a motion which states the subject or issue that the proffered exhibit or testimony would address. Boston Gas Company, D.P.U. 88-67, Phase I, at 7 (1988). Only if the motion is granted, is it then proper to present the exhibit or testimony itself. The Department's rationale for this rule is that the presentation of extra-record evidence to the fact finder after the record has closed is potentially

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significance of most anything suggested in record evidence with reasonable clarity may fairly be argued on brief.

prejudicial to the rights of other parties even when the evidence is ultimately excluded (id.).

2. Allocation of Officers' Compensation

The Company proposes to recover all of the compensation costs for its corporate officers through the regulated gas company, allocating none of those costs to the Company's Affiliate (Exh. AG-1-15; Exh. AG-3-6). According to the Company's Annual Return to the Department for year-end 2000, the Company officers are: Mr. James Wojcik, president; Mrs. Grace Wojcik, clerk; and Mr. Joseph Wojcik, treasurer (Exh. AG-1-2). According to the Company, Joseph Wojcik draws no salary (id.).

3. Positions of the Parties

a. The Attorney General

The Attorney General asserts that the Company should allocate to the Affiliate a portion of the compensation paid to the Company's officers representative of the time each officer provides services to the Affiliate (Attorney General Brief at 17). The Attorney General argues that the Department requires that reasonable allocations be made to utility affiliates that share assets and costs with the utility (id.). The Attorney General calculates a total compensation number for the personnel at $111,387 (id.). Specifically, the Attorney General recommends that the Department use the 32.9 percent revenue allocation factor proposed used by the Company in making other allocations where the Company and the Affiliate share expenses (id.). According to the Attorney General, $36,646 of officers' salaries should be allocated to the Affiliate (id.).

b. The Company

The Company requests that the Department reject the Attorney General's recommendation to allocate officer's salaries to the Affiliate on the basis of a revenue allocator (Company Reply Brief at 9). The Company argues that if an allocator is used to allocate officers' compensation, the appropriate allocator should be based on time spent working for the Affiliate (id.).

4. Analysis and Findings

The Department's long-established policy is to allocate costs to the non-utility for any services and/or costs directly attributable to the operations of the non-utility. See, e.g., Commonwealth Gas Company D.P.U. 87-122 at 24-25 (1987); Essex County Gas Company, D.P.U. 87-59, at 14 (1987). Generally, for costs incurred by a utility for officers' salaries, the Department would allocate to the non-utility a portion of the compensation based on the time spent by the officer on non-utility business. See e.g., Berkshire Gas Company, D.P.U. 90-121, at 59 (1990).

Here, however, nothing in the record indicates that any portion of Blackstone's officers' salaries are properly attributable to the Affiliate. Thus, the Department finds that no allocation of officers' salaries to the Affiliate is warranted.

The Department directs the Company to implement, immediately, a time-allocation system for each officer of the Company. Such a system will ensure that the appropriate information concerning allocation is available for the Department's review in the Company's next rate case.

E. Inflation Adjustment

1. Introduction

The Company seeks an inflation adjustment of 2.98 percent for both its Administrative and General Expenses ("A&G") and its Operation and Maintenance Expenses ("O&M") (Exh. B-1, at exh. 2, sch. 3; Exh. AG-2-9; Exh. AG-2-10). Also, the Company proposes to adjust for inflation its expenses for wages (id.).

2. Positions of the Parties

a. Attorney General

The Attorney General maintains that the Company's proposed inflation adjustment should be denied because it includes expenses that are either adjusted for elsewhere or are fixed in nature (AG Brief at 18). Specifically, the Attorney General argues that since the Company made pro forma adjustments to the wage and salary expenses, wages should be removed from the inflation adjustment (id.). Moreover, the Attorney General argues that the test year rent and lease expenses should be removed from the inflation adjustment since the expenses are fixed (id.).

b. The Company

With regard to the proposed inflation adjustment for wages expenses, the Company contends that it performed no adjustment to its wages, other than to normalize test year labor costs to reflect mid-test year wage levels (Company Brief at 12). The Company contends that its mid-test year adjustment did not account for expected increases in wage levels and the adjustment only reflected increases provided during the first 20 weeks of the test year (id. at 10). Regarding rent and lease expenses, the Company contends that those expenses are not fixed and, therefore, do not have to be removed from the inflation adjustment (Company Brief at 12)

3. Analysis and Findings

The Department allows companies to apply an inflation adjustment to expenses, unless those expenses are adjusted for in a company's cost of service, or are fixed in nature. See, e.g., Boston Gas Company, D.P.U. 88-67(Phase I), at 140 (1988). With regard to the expenses for wages, the evidence established that the Company has adjusted for those expenses in its cost of service (Exh. B-4, at sch.3). Thus, the Department finds that, as those expenses have been already adjusted for in the test-year, the Company's request to apply the inflation adjustment to expenses for wages is denied.

Regarding the rent and lease expense, the Department notes that the Company's expenses are established to be paid in equal installments over a finite period of time. Thus, the Department finds that, by definition, the Company's rent and lease expenses are fixed. Accordingly, the Department denies the Company's request to adjust for inflation for lease and rent expenses. As outlined in Table 1 in the text below, the inflation allowance shall be $4,154, reflecting Department Adjustments.

Inflation Adjustment-Table 1

Test year O & M and A & G Expense	$ 389,690
Less O & M and A & G Expense Adjustments (per Company)	
Unbundling/Benefit to Affiliate	$ 21,328
O & M and A & G Expenses Subject to Inflation (per Company)	$ 368,362
Less DTE Adjustments	
Wages	$ 193,983
Rent/leases	$ 14,438
Liability Insurance	$ 20,544
DTE Subtotal	$ 228,965
O & M and A & G Expense subject to Inflation	$ 139,397
Inflation Adjustment Factor	0.0298
Inflation Allowance	$ 4,154

F. Rate Case Expense

1. Introduction

In its initial filing, the Company estimated that rate case expense would total $60,000 (Exh. B-1, at 10). The Company proposed to normalize the estimated rate case expense over a five year period at $12,000 per year (Exh. B-1, at exh. 2, sch. 3). On October 15, 2001, the Company filed, along with its reply brief, a Motion to Update Rate Case Expenses ("Motion to Update"). The updated rate case expenses total $106,419, to be amortized over five years (Motion to Update, att. 1). Of that amount, the Company states that $97,319 has already been spent; $9,100 is estimated to be spent in the future (id.).

2. Position of the Parties

a. Attorney General

The Attorney General filed an Objection to Blackstone's Motion to Update Rate Case Expenses ("Objection to Update"). The Attorney General argues that the Company does not provide any supporting documentation indicating that the additional expenses totaling $46,419 are necessary (Objection to Update, at 1-2).

b. The Company

The Company argues that the Department should allow recovery of all updated rate case expenses (Motion to Update, at 1). The Company contends that the cost of discovery and the number of contested issues exceeded what Blackstone anticipated (Tr. 2 at 140). Hence, the actual expenses were greater than originally estimated (id.). Specifically, the Company notes that the Attorney General raised many issues for the first time on brief (Company Brief at 2). The Company asserts that the necessary detailed responses to these issues generated previously unforseen costs, thus increasing rate case expenses (Motion to Update, at 1).

3. Analysis and Findings

Before we address the issue of recovery of the rate case expenses, the Department notes that we routinely permit the record to remain open after the close of hearings for receipt of updated information on rate case expense. Fitchburg Gas and Electric Light Company, D.T.E. 99-84, at 56 (1998). See also, Milford Water Company, D.P.U. 92-101, at 36 (1992); Bay State Gas Company, D.P.U. 89-81, at 47 (1989); Western Massachusetts Electric Company, D.P.U.86-280-A, at 17 (1987); Western Massachusetts Electric Company, D.P.U. 85-270, at 6

(1986). The final costs of litigating a rate case cannot be completely confirmed before the close of hearings; thus, it is entirely proper for a party to move to update its rate case expense after the close of hearings. Therefore, the Company's Motion to Update Rate Case expense is granted, and the Attorney General's Objection to Update is overruled. The Department will consider the costs of $106,419 to be the Company's proposed rate case expense.

The Department allows recovery for rate case expenses if the expenses are known and measurable. Dedham Water Company, D.P.U. 84-32 at 17 (1984). A known and measurable expense is a quantified expense that has been incurred by the Company. Fitchburg Gas and Electric Light Company, D.T.E. 98-51, at 62 (1998). Proposed adjustments based on projections or estimates are not known and measurable and recovery of those expenses is not allowed. See Berkshire Gas Company, 92-210 at 83 (1993); Dedham Water Company, D.P.U. 849 at 32-34 (1982).

The Company has submitted documentation indicating that the Company has already incurred costs of $97,319. As these costs are known and measurable, the Department will allow recovery of that amount. However, the Company's estimate that Blackstone will incur an additional $9,100 for rate case expenses does not meet the Department's definition of "known and measurable." Thus, the Department will reduce the recoverable amount by $9,100. Accordingly, the Company's request to recover a total of $106,419 in rate case expenses is denied and will be reduced to $97,319.

In determining the normalization period for rate case expenses, the Department averages the length of time for the periods between the filing dates of a company's last four rate case filings, including the most recent case, and rounds off to the nearest whole year. Fitchburg

Gas and Electric Light Company, D.T.E. 98-51, at 54 (1998); Berkshire Gas Company, D.P.U. 1490, at 33-34 (1983). Blackstone's last four rate cases were filed on the following dates, starting with the most recent: May 15, 2001 (D.T.E. 01-50); June 14, 1996 (D.P.U. 96-65); September 18, 1990 (D.P.U. 90-240); and, May 14, 1982 (D.P.U. 1135). The total time elapsed during the three intervals is 19 years. Nineteen years divided by three intervals rounds down to an average interval of six years. Therefore, the Department finds that the correct normalization period for the $97,319 in rate case expenses is six years.

The amount of the rate case expense compared with the amount the Company sought for a rate increase is of concern to the Department. Rate case expense, like any other expenditure, is an area where companies should seek to contain costs. Fitchburg Gas and Electric Light Company, D.T.E. 98-51, at 57 (1999). While the Department has allowed the inclusion of known and measurable rate case expense, we remain concerned that the Company's request for recovery of approximately $106,000 is disproportionate to the relief sought. Therefore, the Department directs the Company to submit details on how it intends to contain future rate case expenses, including undertaking settlement negotiations. The Company shall file this information with the Department within six months of the date of this Order.

IV. CAPITAL STRUCTURE AND RATE OF RETURN

A. Introduction

The Company initially proposed a capital structure consisting of $290,821 in long-term debt and $1,280,347 in common equity (Exh. B-1, at exh. 4). The common equity portion of the capital structure was calculated by subtracting long-term debt from a rate base of $1,571,168 (id.). The Company computed its cost of capital to be 10.6 percent, based upon a cost of long-term debt of 9 percent and a cost of common equity of 11 percent (id.). The Company revised its proposal to include the actual test year long-term debt and equity of $290,821 and $574,128 respectively (RR-DTE-4, at Worksheet 3). This includes interest bearing notes payable for $262,522, and a post-test year adjustment for long-term debt of $234,187, with a 7 percent interest rate, to be issued after the close of the test year (id.). The cost of capital based on this capital structure was calculated at 9.72 percent (id.).

B. Positions of the Parties

1. The Attorney General

The Attorney General did not oppose the Company's final revision to its capital structure, stating only that the Department should consider all of the financial resources used to finance rate base in computing the allowed cost of capital (Attorney General Brief at 8).

2. The Company

The Company argues that its capital structure was appropriately calculated and should be approved by the Department (Company Brief at 4). The Company proposes to issue $234,187 of post-test year long-term debt with seven percent interest (RR-DTE-4, at Worksheet 3). The dollar amount of that issuance was determined by subtracting from the Company's rate base, the total of actual test year long-term debt, interest bearing notes payable, and common equity (id.). As a result, the Company's proposed cost of capital is 9.72 percent (id.)

3. Analysis and Findings

The Department rejects the Company's method to derive its capital structure. The Company's proposed method to calculate the capital structure is based on the presumed Department approval of a prospective debt issue which has not been presented to the

Department for review. Moreover, there is no evidence, just supposition, to suggest that the debt issue would be proposed by the Company or that the Department would approve such a proposal.

In reviewing and applying utility company capital structures, the Department seeks to protect ratepayers from the effect of excessive rates of return. Assabet Water Company, D.P.U. 95-92, at 33 (1996); Wylde Wood Water Works, D.P.U. 86-93, at 25 (1987); Blackstone Gas Company, D.P.U. 1135, at 4 (1982). Where a capital structure has been found to deviate substantially from sound and well-established utility practice, the Department has imposed a hypothetical structure of 50 percent debt and 50 percent common equity for ratemaking purposes.

The Company's present capital structure is heavily weighted towards common equity at 66.4 percent ($574,128 divided by $864,949) (RR-DTE-4, at Worksheet 3). This reliance on common equity deviates from sound utility practice in that it serves to increase the Company's required return and correspondingly increases rates to customers. Because the Company's proposed capital structure deviates from sound and well-established utility practice, the Department finds that it must impose a hypothetical capital structure for ratemaking purposes consisting of 50 percent debt and 50 percent equity. Concerning the cost of debt, the Department will apply the Company's current embedded cost of debt of 9 percent to calculate the debt component of its weighted cost of capital. For the appropriate cost of equity, the Department will use between 10.5 and 11.0 percent. In determining the allowed rate of return for Blackstone, the Department must ensure that the allowed rate of return will preserve Blackstone's financial integrity, will increase the likelihood that the Company can attract capital on reasonable terms, and will be comparable to the earnings of similarly-situated companies.

Based on a review of the evidence presented in this case, the Department finds that a rate of return on common equity of 10.5 percent satisfies the standards set forth by the Supreme Court in Bluefield Water Works and Improvement Company v. Public Service Commission of West Virginia, 262 U.S. 679 (1923); and Federal Power Commission v. Hope Natural Gas Company, 320 U.S. 591(1942). This return is consistent with recent Department findings regarding return on equity. Fitchburg Gas & Electric, D.T.E. 99-118 (2001). Thus, under the capital structure described by the Company above, the Company's overall rate of return is 9.75 percent.

V. SUPPLIER METERING ISSUE

A. Introduction

An issue has been presented for the Department's determination concerning whether the amount of gas sold by the Company to its customers has exceeded the amount of gas purchased by the Company from its supplier, the Tennessee Gas Pipeline Company. Specifically, the issue concerns potential inaccuracies with the supplier's meter (Company Reply Brief at 5; Tr.1 at 64; Exh. AG -1-2).

B. Positions of the Parties

1. Attorney General

The Attorney General contends that the Company has routinely billed its customers for more gas than the Company has received from its supplier (Attorney General Brief at 5). The Attorney General seeks a dismissal of the case citing Fryer vs. Department of Public Utilities, 374 Mass. 685 at 691 (1978), wherein the Department held that the utility records were not reliable and did not permit new rates to be established (id. at 6). The Attorney General also requests a delay of the base rate increase until the Company installs its own meter to verify the accuracy of the supplier's meter (Attorney General Reply Brief at 3-4).

2. The Company

The Company acknowledges that it has had problems with the supplier's meter readings in the last several years (Company Reply Brief at 5; Tr. 1 at 64). However, the Company argues that its customers' bills are accurate and reliable because customer bills are based on readouts from the customer meters, which are calibrated by an independent company (Company Brief at 3; Tr. 1 at 67-68). Further, the Company notes that it reconciles any monetary differences between the amount of gas sold to its customers and the amount of gas purchased from its supplier through the CGAC; thus, customers are protected from erroneous billing (Company Brief at 3).

C. Analysis and Findings

The record shows that the billing determinants used for rate design purposes in this case are based on the customer meter readings and not on billings from Blackstone's gas supplier. Moreover, the record indicates that the customer meters are independently calibrated to ensure accuracy (Tr.1 at 68). The Department finds that any discrepancy related to the supplier meter does not invalidate the Company's billing records. Further, the amount of gas purchased by the Company from its supplier, and the readings pursuant to the city gate meter, have no bearing on the propriety of the proposed rates. Consequently, the Department rejects the Attorney General's claim that the books and records of the Company are so inconsistent as to warrant the request to dismiss the case or to delay the onset of the base rate increase. The

Company is, however, directed to resolve this question of supplier metering and inform the Department of the terms of resolution not later than six months from the date of this Order. This issue should not consume time and resources in the Company's next rate case.

VI. RATE DESIGN

A. Rate Structure

Rate structure is the level and pattern of prices charged to customers for use of utility service. The rate structure for each rate class is a function of the cost of serving that rate class and the design of the rates such that it recovers the cost to serve.

The Department has determined that utility rate structures must be efficient, simple, and ensure continuity of rates, fairness between rate classes, and corporate earnings stability. Boston Gas Company, D.P.U. 96-50 (Phase I), at 133 (1996); Boston Gas Company, D.P.U. 93-60, at 331-332 (1993); Berkshire Gas Company, D.P.U. 92-210, at 201 (1993). Efficiency means that the rate structure should ensure recovery of the cost of providing the service and should provide an accurate basis for consumers' decisions about how to best fulfill their needs. The lowest-cost method of fulfilling consumers' needs should also be the lowest-cost means for society as a whole. Thus, efficiency in rate structure means that it is cost-based, and recovers the cost to society of the consumption of resources to produce the utility service. The Department has determined that a rate structure achieves the goal of simplicity if it is easily understood by consumers. Rate continuity means that changes to rate structure should be gradual to allow consumers to adjust their consumption patterns in response to a change in structure. Fairness means that no class of consumers should pay more than the costs to serve that class. Earnings stability means that the amount a company earns from its rates should not vary significantly over a period of one or two years.

There are two steps in determining rate structure: cost allocation and rate design. The cost allocation step allocates a portion of a company's total costs to each rate class in a cost of service study ("COSS"). The COSS represents the cost of serving each class given a company's level of total costs. Boston Gas Company, D.P.U. 96-50 (Phase I), at 133 (1996); Boston Gas Company, D.P.U. 93-60, at 331-332 (1993); Berkshire Gas Company, D.P.U. 92-210, at 201 (1993).

The results of the COSS are compared to the revenues collected in the test year. If these amounts are close, then the revenue increase or decrease may be allocated among the rate classes so as to equalize the rates of return and ensure that each rate class pays the cost of serving it. If, however, the differences between the allocated costs and the test-year revenues are great, then, for reasons of continuity, the revenue increase or decrease may be allocated so as to reduce the difference in rates of return, but not to equalize them in a single step. See Boston Gas Company, D.P.U. 96-50 (Phase I), at 134 (1996); Bay State Gas Company, D.P.U. 92-111, at 317 (1992). .

As the previous discussion indicates, the Department does not determine rates based solely on costs, but also explicitly considers the impact of its rate structure decisions on customers' bills. For instance, the pace at which fully cost-based rates are implemented is dependent, in part, on the effect of the changes on customers. The Department has ordered the establishment of special subsidized rate classes for certain low-income customers. In moving toward our goal of efficiency, the Department also considers the impact of such rates on low-income customers.

In order to reach fair decisions that encourage efficient utility and consumer actions, the Department's rate structure goals must balance the oftentimes divergent interests of various customer classes and prevent any class from subsidizing another unless a clear rationale exists to support such subsidies. For all these reasons, the Department reaffirms its rate structure goals, for achieving them would result in rates that are fair and cost-based and enable customers to adjust to changes.

The second step in determining the rate structure is rate design. The level of the revenues to be generated by a given rate structure is governed by the cost allocated to each rate class in the cost allocation process. The pattern of prices in the rate structure which produces the given level of revenues is a function of the rate design. The rate design for a given rate class is constrained by the requirement that it produce sufficient revenues to cover the cost of serving the given rate class.

B. Rate-by-Rate Analysis

1. Introduction

The Company has proposed changes to its residential non-heating and heating rates (R-1 and R-3) and general service rates.

2. Rate R-1 and Rate R-3: Residential Non Heating and Heating

a. The Company's Proposal

Rate R-1 is available to all residential customers who do not have gas space heating equipment, while Rate R-3 is available to all residential customers who have gas space heating equipment. The Company proposed to increase the monthly customer charge by $1.50, from $8.00 to $9.50 for both Rate R-1 and Rate R-3 (Exh. B-1, at exh. 10). For Rate R-1, the

Company proposed to collect the remaining class revenue responsibility from the headblock and tailblock charges for the peak and off-peak season by increasing each of the four blocks' current charge by the same percentage (Exh. B-1, at exh. 10). The Company also proposed to use this method to determine the headblock and tailblock charges for the peak and off-peak seasons for Rate R-3 (Exh. B-1, at exh. 10).

The current Rate R-1 headblock charge for both peak season and off-peak season is $0.68307 per Ccf for the first 10 Ccf consumed. The current tailblock charge for the peak season is $0.47985 and for the off-peak season is $0.33073 per Ccf for each additional Ccf consumed. The proposed Rate R-1 headblock charge for both peak season and off-peak season is $0.84109 per Ccf for the first 10 Ccf consumed (Exh. B-1, at exh. 10). The proposed tailblock charge for the peak season is $0.59086 and for the off-peak season is $0.40724 per Ccf for each additional Ccf consumed (Exh. B-1, at exh. 10).

The current Rate R-3 headblock charge for both peak season and off-peak season is $0.62305 per Ccf for the first 30 Ccf consumed. The current tailblock charge for the peak season is $0.40970 and for the off-peak season is $0.27462 per Ccf for each additional Ccf consumed. The proposed Rate R-3 headblock charge for both the peak season and off-peak season is $0.86010 per Ccf for the first 30 Ccf consumed (Exh. B-1, at exh. 10). The proposed tailblock charge for the peak season is $0.56558 and for the off-peak season is $0.37910 per Ccf for each additional Ccf consumed (Exh. B-1, at exh. 10).

b. Analysis and Findings

Based on a review of the bill impacts on customers and each class' embedded cost, the Department finds that for Rate R-1 and Rate R-3, setting the monthly customer charge for the peak and off-peak season at $9.00, and collecting the remaining class revenue responsibility as specified on Schedule 10, by increasing the headblock and tailblock rates for the peak and off-peak season by the same percentage allows the Company to recover its costs and results in bill impacts that are moderate and reasonable. Accordingly, such a rate design satisfies the Department's rate structure goals. Therefore, the Department directs the Company to set those charges accordingly.

3. Low Income Rate

a. Introduction

For the first time, the Company has proposed to offer a low-income residential rate that would provide a 25 percent base rate discount from the Department-approved residential rate (Exh. B-1 at 15-16). The Company proposes to establish eligibility for the subsidized rate upon verification of a customer's receipt of any means-tested public benefit program, for which eligibility does not exceed 175 percent of the federal poverty level based on a household's gross income (id., at exh.10). Because the Company has no accurate basis to estimate the number of customers who would be eligible for such a rate, the Company estimated that five percent of its residential heating class would be eligible for service under the low-income rate (id. at 15-16). The Company based this estimate on the experience of a similarly-situated LDC, North Attleboro Gas Company. However, the Company requests that if the enrollment for the low income rate is higher than estimated, that Blackstone be allowed to defer any undercollection and recover the shortfall through the Local Distribution Adjustment Clause ("LDAC"), or in the Company's next base rate case (Company Brief at 16).

b. Positions of the Parties

i. Attorney General

The Attorney General argues that Department precedent does not permit either the deferral for recovery via base rates of additional low income discounts or the recovery of these discounts through the LDAC (Attorney General Reply Brief at 10). The Attorney General asserts that no deferral is required because only a recurring level of low income discounts would be allowed in the Company's next rate case and that level would be based on the Company's actual test year experience (id. at 11). Further, the Attorney General argues that the Department has issued specific directives that do not permit recovery of discounts through the LDAC (id. citing Fitchburg Gas and Electric Light Company, DTE 98-51, at 148-149 (1998)).

ii. The Company

The Company requests approval of its low-income rate (Company Brief at 15-16). The Company also proposes to defer recovery of the low-income discounts in excess of its projected deficiency amount either as part of Blackstone's next base rate case or through the LDAC (id.).

c. Analysis and Findings

The Department has held that because the imposition of cost-based rates on low-income customers may make it difficult for these users to obtain utility service, the Department will encourage the offering of subsidized rates on the basis of income criteria, provided that the impact on the customers who support the subsidy is not excessive. Essex County Gas Company, D.P.U. 89-107 (1989); Bay State Gas Company, D.P.U. 89-81 (1989); Western Mass Electric Company, D.P.U. 87-260, at 177-178 (1988); Boston Gas Company, D.P.U. 88-67 (Phase I), at 240-241 (1988).

The Department's review of the bill impact analyses for all rate classes assuming approval of the low-income rate indicates that non-subsidized customers would not be excessively impacted. The total shortfall for low-income customers is $5,700; recovery of this amount will impact the average customer billing by only $0.00516 per Ccf. Therefore, the Department approves the Company's proposal to offer a low-income rate. Moreover, the Department notes that Blackstone's reliance on North Attleboro Gas Company's experience to determine the number of customers likely to be eligible for the subsidized rate is reasonable, since North Attleboro Gas Company is a similarly-situated company (Exh. B-1, at 15-16).

The Department, however, rejects the Company's proposal to defer recovery of the low-income discounts in excess of its projected deficiency amount either as part of Blackstone's next base rate case or through the LDAC. In setting base rates, the Department does not ensure dollar-for-dollar recovery by a utility of its costs and expected profits. Rather, rates reflect a representative level of expenses and provide a reasonable opportunity to earn the allowed return. Berkshire Gas Company, D.P.U. 92-210, at 236 (1993) citing Western Massachusetts Electric Company, D.P.U. 90-300, at 71 (1991); Western Massachusetts Electric Company, D.P.U. 85-270, at 194 (1986). The Company's proposal is an attempt to guarantee a dollar-for-dollar recovery of its low-income subsidy costs.

The low-income subsidy level is based on a penetration rate proposed by the Company and found by the Department to be a reasonable estimate. The Department allows recovery of the low-income subsidy via base rates charged to other ratepayers. Unlike the various cost items that are recovered via the CGAC or the LDAC, the low-income subsidy is not a reconciling item. In the future, if the number of low-income customers is higher than projected in this case, and subsequently causes the Company's revenues to decline, Blackstone may file a proposed rate increase, and recovery of the additional undercollections will be taken up in review of that proposal.

Regarding the allocation of the low-income subsidy to the other classes, the Department allows the recovery of revenue shortfall associated with subsidized rates from the utility's remaining customers by allocating the shortfall to the respective rate classes based on a rate base allocator. Boston Gas Company, D.P.U. 96-50 (Phase I), at 158 (1996); Essex County Gas Company, D.P.U. 91-107/110/111, at 24 (1991); Berkshire Gas Company, D.P.U. 89-112, at 38 (1989); Bay State Gas Company, D.P.U. 89-81, at 124-125 (1989); Colonial Gas Company, D.P.U. 86-27-A, at 49 (1988). Accordingly, the Department directs the Company, in its compliance filing, to collect the low-income shortfall from the other classes using a rate base allocator.

4. General Service Rate G-1

a. The Company's Proposal

Rate G-1 is available to all commercial and industrial customers. The Company proposed to increase the monthly customer charge by $1.50, from $10.50 to $12.00 for Rate G-1 (Exh. B-1, at exh. 10). For Rate G-1, the Company proposed to collect the remaining class revenue responsibility from the headblock, midblock, and tailblock charges for the peak and off-peak season by increasing each of the six blocks' current charge by the same percentage.

The current Rate G-1 headblock charge for both peak season and off-peak season is $0.62305 per Ccf for the first 30 Ccf consumed. The current midblock charge for the peak season is $0.46599 and for the off-peak season is $0.35554 per Ccf for the next 330 Ccf consumed. The current tailblock charge for the peak season is $0.40970 and for the off-peak season is $0.27462 per Ccf for each additional Ccf consumed. The proposed Rate G-1 headblock charge for both peak season and off-peak season is $0.84412 per Ccf for the first 30 Ccf consumed (Exh. B-1, at exh. 10). The proposed midblock charge for the peak season is $0.63133 and for the off-peak season is $0.48169 per Ccf for the next 330 Ccf consumed (Exh. B-1, at exh. 10). The proposed tailblock charge for the peak season is $0.55507 and for the off peak-season is $0.37206 per Ccf for each additional Ccf consumed (Exh. B-1, at exh. 10).

b. Analysis and Findings

Based on a review of the bill impacts on customers and the Rate G-1 embedded cost, the Department finds that for Rate G-1, setting the monthly customer charge for the peak and off-peak season at $12.00, and collecting the remaining class revenue responsibility as specified on Schedule 10, by increasing the headblock, midblock, and tailblock rates for the peak and off-peak season by the same percentage, allows the Company to recover its cost and results in bill impacts that are moderate and reasonable. Accordingly, such a rate design satisfies the Department's rate structure goals. Therefore, the Department directs the Company to set those charges accordingly.

5. School Tariff

a. Introduction

The Company proposes to create a new tariff ("school rate") for the Kennedy Maloney School ("the School") (Exh. B-1, at 5). The School was previously served under a special contract, and received gas supply via a contract with Distrigas of Massachusetts Inc. ("Distrigas") that has since expired (Tr. 1 at 93-94). Upon expiration of the School's contract with Distrigas, Blackstone executed a contract with the School (approved by the Department) wherein the School paid the applicable Gas Adjustment Factor ("GAF"), but paid distribution rates that were lower than the Company's commercial tariff rate (Exh. B-1, at 5, 14). That contract has since expired and has not been renegotiated; however, the Company continues to serve the School under the previously-executed contractual terms (id. at 5).

The Company stated that although the results of its allocated cost of service study show a revenue deficiency of 62.9 percent for the school rate, for continuity reasons, Blackstone proposes to increase the revenue requirement for the school rate by 18.4 percent which is the system average (id. at 14). Further, the Company indicated that it is concerned that the School would return to oil if total gas costs "increase too much" (id. at 14).

b. Positions of the Parties

i. Attorney General

The Attorney General opposes the school rate proposed by the Company and argues that Blackstone's customers should not be required to subsidize the School (Attorney General Brief at 21). Moreover, the Attorney General states that the Department has found that, in the post-restructuring world, any discount provided under a special contract is not recoverable from other customers (id. citing Standard of Review for Electric Contracts D.P.U./D.T.E. 96-39-A (1998)). According to the Attorney General, the Department has also denied recovery of discounts from tariff rates in pre-restructuring cases (id. citing Massachusetts Electric Company, D.P.U. 95-40 (1995); Boston Edison Company, Manufacturing Retention

Rate, Department Letter Order dated February 28, 1995; Fitchburg Gas and Electric Light Company, EC 95-19, Letter Order dated October 25, 1995).

Finally, the Attorney General argues that although the Company can serve the School under a special contract, tariffs of general applicability must be based on the cost to serve the customer (id.). The Attorney General asserts that should Blackstone not serve the School under a special contract, and instead charge a cost-based rate, any increases should be phased-in over a three-year period (id.). The Attorney General contends that this approach has been approved by the Department in other cases to address continuity concerns (id. at 22-23, citing Western Massachusetts Electric Company, D.P.U. 85-270, at 129 (1985); Boston Edison Company, D.P.U. 92-92, at 37-40 (1992)).

ii. The Company

The Company states that under the proposed school rate, all gas costs are recovered through the CGAC (Company Brief at 15). Thus, according to Blackstone, all additional revenues received by the Company from the School are incremental and benefit Blackstone's other customers (id.). The Company proposes to increase costs to the school by 18.4 percent, which is the system average revenue increase originally proposed by Blackstone (id. at 14). Blackstone argues that such an increase would bring the school's costs closer to the fully allocated cost to serve the school (id.). The Company disagrees with the Attorney General and argues that charging a price equivalent to the fully allocated cost of service would increase the school's costs by 62.9 percent and violate the Department's rate continuity principles. This, the Company contends, could increase the likelihood that the School would return to oil, and all revenues generated from the School that currently offset the cost of service for Blackstone's other customers would be lost (id. at 15).

c. Analysis and Findings

The Department has held that when developing new rate classes, individual customers should be grouped so that the rates they pay reasonably represent the costs to serve them. See Boston Gas Company, D.P.U. 84-236-A, at 11 (1986); Boston Edison Company, D.P.U. 1720, at 136 (1984). The costs of serving, for the purposes of determining rate classes, are: (1) marginal costs unitized by function and classification; and (2) embedded costs, also on a unitized basis. See Commonwealth Electric Company, D.P.U. 88-135/151, at 200 (1989).

The Company provided unitized embedded costs by rate class. The record shows that the unitized embedded costs for Rate G-1 -- which serves all of the Company's commercial customers -- and the proposed school rate are almost identical.[5] This might suggest that the School should take service under Rate G-1. However, Blackstone did not calculate marginal costs for any of the rate classes, and consequently an evaluation based on unitized marginal costs cannot be made. Absent a complete evaluation based on embedded, as well as marginal costs, the Department cannot determine whether the School should be merged with Rate G-1 or be treated as a separate rate class. We will accept the Company's proposal to create a separate rate class for the School for the purposes of this case because putting the School into the G-1 class would adversely impact the school due to the dramatic increase in its rate. We direct Blackstone, in its next rate case filing, to provide documentation based on marginal and embedded costs, that justifies the need for a separate rate for the School or any other entity.

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5 The embedded cost for Rate G-1 is $1.1850 per Ccf, while the school rate's embedded cost is $1.16027 per Ccf (Exh. B-1, at exh. 2, sch.1).

Regarding the allocation of costs to the school rate, the Department's policy is to allocate costs on the basis of equalized rates of return ("ROR"). Berkshire Gas Company, D.P.U. 92-210, at 214 (1993); Western Massachusetts Electric Company, D.P.U. 92-210, at 214 (1987). The Department recognizes, however, that in some cases full equalization of rates of return may not be compatible with continuity in rates. As the evidence indicates, full equalization of rates of return would create a school rate that is 62.9 percent higher than the current cost to the school. Thus, the Department finds that rate continuity considerations prohibit us from setting the School's revenue requirement at full cost of service. Rather, the Department will increase the school rate's total revenue requirement by 18.4 percent, as proposed by the Company.[6] The Department finds that this increase will mitigate the bill impact to the School and will also move the rate closer to fully allocated costs. Thus, because the Department is ordering this level of revenue increase appropriate, we find that the Attorney General's proposal to phase-in the increase to the School over a three-year period is not warranted.

Based on a review of the bill impacts for this rate class, the Department finds that a rate designed with a $12.00 monthly customer charge, and an energy charge that is designed to collect the remaining class revenue responsibility as specified on Schedule 10, satisfies continuity and produces bill impacts that are moderate and reasonable. Accordingly, such a rate design satisfies the Department's rate structure goals. Therefore, the Department directs the Company to set those charges accordingly.

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6 Schedule 10, attached to this Order, shows the allocation of total revenues as well as base revenue responsibility by rate class.

Finally, the Department notes that the evidence indicates that Blackstone continues to serve the School under the terms and conditions of a recently expired contract (Tr. 1, at 93-96; RR-AG-13; RR-AG-14). Pursuant to G.L. c. 164, § 94, Blackstone is required to serve the school by either a Department-approved contract, or under an applicable tariff. Neither was done here. Apart from service under a contract approved, or at least not disallowed, by the Department in accordance with paragraph 3 of § 94, a company may lawfully provide service only under rates on file with, and approved by, the Department in accordance with the rest of that same section. Ratesetting is a legislative act of the Department under statutory delegation. A rate so approved must be charged and must be paid. Service under an expired contract is not permissible. Companies that fail to comply with G.L. c. 164, § 94 bear the risk that the Department will disallow cost recovery of any rate not previously approved by the Department. See Massachusetts-American Water Company, D.P.U. 88-172, at 7 (1989).

VII. SCHEDULES

See following pages.

SCHEDULE 1

REVENUE REQUIREMENTS AND
CALCULATION OF REVENUE INCREASE

	PER COMPANY	COMPANY ADJUSTMENT	DTE ADJUSTMENT	PER ORDER
COST OF SERVICE				
Total O&M Expense	$1,085,225	$33,595	$(44,421)	$1,074,399
Depreciation and Amortization	65,318	0	0	65,318
Taxes Other Than Income Taxes	30,137	542	0	30,679
Income Taxes	68,897	(49,272)	26	19,651
Interest On Customer Deposits	1,021	0	0	1,021
Return On Rate Base	167,000	38,898	(78,446)	127,452
Total Cost Of Service	$1,417,598	23,763	(122,842)	$1,318,520
OPERATING REVENUES				
Operating Revenues	1,195,542	0	0	1,195,542
Other Revenue	1,990	0	0	1,990
Total Operating Revenues	1,197,532	0	0	1,197,532
Revenue Deficiency	$220,066	23,763	(122,842)	$120,988

SCHEDULE 2

OPERATIONS AND MAINTENANCE
EXPENSES

	PER COMPANY	COMPANY ADJUSTMENT	DTE ADJUSTMENT	PER ORDER
Purchased Gas Expense	$591,464	$0	$0	$591,464
Other O&M Expense	473,903	26,395	0	$500,298
O&M Expense Per Books	1,065,367	26,395	0	1,091,762
ADJUSTMENTS TO OTHER O&M EXPENSE:				
1996 Wage & Salary Expense	11,981	0	0	11,981
Unbundling Expense	(25,246)	7,361	0	(17,885)
Liability Insurance	10,000	(4,114)	(14,581)	(8,695)
Uncollectible Expense	(1040)	(253)	(18,400)	(19,693)
Benefit Allocation to Affiliate	0	(3,443)	0	(3,443)
Property Tax Blackstone	617	(617)	0	0
Property Tax Bellingham	(75)	75	0	0
Rate Case Expense	12,000	9,284	(5,066)	16,218
1996 Inflation Allowance	11,621	(1,093)	(6,374)	4,154
Total Adj. to Other O&M Expense	19,858	7,200	(44,421)	(19,624)
Total Adjustments to O&M Expense	19,858	7,200	(44,421)	(19,624)
Adjusted Total O&M Expense	$1,085,225	$33,595	(44,421)	1,072,138

SCHEDULE 3

DEPRECIATION AND AMORTIZATION
EXPENSES

	PER COMPANY	COMPANY ADJUSTMENT	DTE ADJUSTMENT	PER ORDER
Depreciation Expense	65,318	0	0	65,318
Amortization Expense	0	0	0	0
Total Depreciation and Amortization Expense	$65,318	0	0	$65,318

SCHEDULE 4

RATE BASE AND RETURN
ON RATE BASE

	PER COMPANY	COMPANY ADJUSTMENT	DTE ADJUSTMENT	PER ORDER
Utility Plant in Service	1,931,897	(42,259)	0	1,889,638
LESS:				
Reserve For Depreciation	515,296	0	0	515,296
Net Utility Plant in Service	1,416,601	(42,259)	0	1,374,342
ADDITIONS TO PLANT:				
Cash Working Capital	60,875	4,142	(5,477)	59,540
Reserve for Deferred Inc. Taxes	82,942	(82,942)	0	0
Customer Deposits	10,750	(10,750)	0	0
Total Additions to Plant	154,567	(89,550)	(5,477)	59,540
DEDUCTIONS FROM PLANT:				
Reserve for Deferred Inc. Taxes	0	82,942	0	82,942
Customer Deposits	0	10,750	0	10,750
Total Deductions from Plant	0	93,692	0	93,692
RATE BASE	1,571,168	(225,501)	(5,477)	1,340,190
COST OF CAPITAL	10.6%	-0.87%	-0.21%	9.51%
RETURN ON RATE BASE *	167,000	38,898	(78,446)	127,452

* Rounded

SCHEDULE 5

COST OF CAPITAL

	<-----PER COMPANY----->			
	PRINCIPAL	PERCENTAGE	COST	RATE OF RETURN
Long-Term Debt	$290,821	18.51%	8.79%	1.63%
Preferred Stock	0	0.00%	0.00%	0.00%
Common Equity	1,280,347	81.49%	11.00%	8.96%
Total Capital	$1,571,168	100.00%		10.6%
Weighted Cost of				
Debt				1.63%
Equity				8.96%
Cost of Capital				10.6%

	<-----PER COMPANY - ADJUSTED----->			
	PRINCIPAL	PERCENTAGE	COST	RATE OF RETURN
Long-Term Debt	$787,530	57.84%	8.79%	5.08%
Preferred Stock	0	0.00%	0.00%	0.00%
Common Equity	574,128	42.16%	11.00%	4.64%
Total Capital	$1,361,658	100.00%		9.72%
Weighted Cost of				
Debt				5.08%
Equity				4.64%
Cost of Capital				9.72%

	<-----PER ORDER----->			
	PRINCIPAL	PERCENTAGE	COST	RATE OF RETURN
Long-Term Debt	$787,530	57.84%	8.79%	5.08%

Preferred Stock	0	0.00%	0.00%	0.00%
Common Equity	574,128	42.16%	10.50%	4.43%
Total Capital	$1,361,658	100.00%		9.51%
Weighted Cost of				
Debt				5.08%
Equity				4.43%
Cost of Capital				9.51%

SCHEDULE 6

CASH WORKING CAPITAL

	PER COMPANY	COMPANY ADJUSTMENT	DTE ADJUSTMENT	PER ORDER
Other O&M Expense	493,761	33,595	(44,421)	482,935
Total Amount Subject to Cash Working Capital Allowance	493,761	33,595	(44,421)	482,935
Cash Working Capital Allowance (Total times 45/365)	60,875	4,142	(5,477)	59,540

SCHEDULE 7

TAXES OTHER THAN INCOME TAXES

	PER COMPANY	COMPANY ADJUSTMENT	DTE ADJUSTMENT	PER ORDER
FICA Taxes	17,887	0	0	17,887
Federal Unemployment Taxes	327	0	0	327
State Unemployment Taxes	1,401	0	0	1,401
State Health Insurance	98	0	0	98
Property Taxes	10,424	542	0	10,966
Total Taxes Other Than Income	30,137	542	0	30,679

SCHEDULE 8

INCOME TAXES

	PER COMPANY	COMPANY ADJUSTMENT	DTE ADJUSTMENT	PER ORDER
Rate Base	1,571,168	(225,501)	(5,477)	1,340,190
Return on Rate Base	167,000	38,898	(78,446)	127,452
LESS:				
Interest Expense	39,090	29,270	(278)	68,082
Total deductions	39,090	29,270	(278)	68,082
Taxable Income Base	127,910	9,628	(78,168)	59,370
Taxable Income	196,807	13,730	(133,003)	77,534
Mass Franchise Tax (6.5 Percent)	12,792	892	(8,645)	5,040

Federal Taxable Income	184,015	12,838	(124,358)	72,494
Federal Income Tax Calculated	56,105	5,006	(46,500)	14,611
Total Income Taxes Calculated	68,897	(49,272)	26	19,651

SCHEDULE 9

REVENUES

	PER COMPANY	COMPANY ADJUSTMENT	DTE ADJUSTMENT	PER ORDER
Operating Revenues per Books	1,195,542	0	0	1,195,542
Other Revenues	1,990	0	0	1,990
Total Operating Revenues	1,197,532	0	0	1,197,532

SCHEDULE 10

REVENUE INCREASE PER ORDER: $155,420

PER COSS (Exh. B-1)

	Test Year Gas Revenues (A)	Test Year Base Revenues (B)	Total Test Year Revenues (C)	Revenue Increase at EROR (D)	Revenue Reqmt at EROR (E)	Adjusted Revenue Increase (F)	Adjusted Revenue Reqmt (G)	Revenue Deficiency from cap (H)	Allocation of Total Revenue Deficiency (I)	Revenue Reqmt Capped at 18.4% (J)	Department Approved Base Revenue (K)
	-	-	-						--	--	
RESIDENTIAL											
R-1 NON-HEATING	12,634	28,484	41,118	8,568	49,686	4,710	45,828	0	259	46,088	33,454
R-3 HEATING	350,343	393,158	743,501	115,318	858,819	63,399	806,900	0	4,690	811,590	461,247
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TOTAL RESIDENTIAL	362,977	421,642	784,619	123,886	908,505	68,110	852,729			857,678	494,701
G-1 GENERAL SERVICE	194,529	171,470	365,999	67,944	433,943	37,354	403,353	0	2,309	405,662	211,133
SCHOOL RATE	33,958	10,966	44,924	28,237	73,161	15,524	60,448	7,258		53,190	19,232
	---	-	-						--	--	
TOTAL COMPANY	591,464	604,078	1,195,542	220,067	1,415,609	120,988	1,316,530	7,258	7,258	1,316,530	725,066

NOTES:

Column (A) - data from Exh. B-1, exh. 2 Schedule 1 (See Normal Gas Revenue);
Column (B) - data from Exh. B-1, exh. 2 Schedule 1 (See Normal Base Revenue);
Column (C) - Column (A) + Column (B);
Column (D) - data from Exh. B-1, exh. 2 Schedule 1 (See Required Increase/(Decrease));
Column (E) - Column (C) + Column (D);

Column (F) - (Column (C) / Column (C) Total Company) * Revenue Increase Per Order.
Blackstone Gas Company should computer Column (F) by rerunning the COSS per our directives in this order;
Column (G) - Column (C) + Column (F);
Column (H) - the revenue deficiency between Column (G) and 18.4% * Column (C);
Column (I) - the allocation of total revenue deficiency of Column (H) among those uncapped rate classes by multiplying Column (H) Total Company by percentage of each rate class to the Column (C) to the sum of Column (C) of all uncapped rate classes;
Column (J) - Column (G) - Column (H) + Column (I);
Column (K) - Column (J) - Column (A).

VIII. ORDER

Accordingly, after due notice, hearing and consideration, it is hereby

ORDERED: That the tariffs M.D.T.E. Nos. 66 through 72, filed by Blackstone Gas Company on May 15, 2001, to become effective June 1, 2001, be and hereby are DISALLOWED; and it is

FURTHER ORDERED: That Blackstone Gas Company shall file new schedules of rates and charges designed to increase annual base rate revenues by $120,988 and it is

FURTHER ORDERED: That Blackstone Gas Company shall file all rates and charges required by the Order and shall design all rates in compliance with this Order; and it is

FURTHER ORDERED: That Blackstone Gas Company shall comply with all other orders and directives contained herein; and it is

FURTHER ORDERED: That the new rates shall apply to gas consumed on or after the date of this Order, but unless otherwise ordered by the Department, shall not become effective earlier than seven (7) days after they are filed with supporting data demonstrating that such rates comply with this Order.

By Order of the Department,

James Connelly, Chairman

W. Robert Keating, Commissioner

Paul B. Vasington, Commissioner

Eugene J. Sullivan, Commissioner

Deirdre K. Manning, Commissioner